

§13-230-8, Definitions.\*\*\*

“Commercial Activity” means the use of or activity for which compensation is received by any person for goods or services or both rendered to customers or participants in that use or activity. Display of merchandise or demanding or requesting gifts, money, or services, shall be considered a commercial activity.

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[Eff 2/24/94 am 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-231-58 Limitations on the number of commercial permits for vessels assigned permanent moorings. \*\*\*

(b) The total number of valid commercial permits which may be issued for vessels assigned permanent mooring in the following small boat harbors are:

<u>Harbor</u>	<u>Number of commercial permits</u>
(1) Ala Wai	0
(2) Keehi	0
(3) Heeia Kea	7
(4) Haleiwa	8
(5) Waianae	15
(6) Nawiliwili	10
(7) Port Allen	12
(8) Kikiaola	3
(9) Kukuiula	4
(10) Hana	2
(11) Kaunakakai	9
(12) Lahaina	32
(13) Maalaea	29
(14) Honokohau	120
(15) Kawaihae (north)	4
(16) Kawaihae (south)	14
(17) Kailua-Kona	3
(18) Keauhou	6
(19) Wailoa	20
(20) Reed's Bay	3

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(d) Upon the approval by the department, a person or corporation possessing a valid commercial activity permit for a vessel moored elsewhere may be issued a regular mooring permit at a state boating facility listed in subsection (b), and retain the commercial activity permit, provided that the permittee relinquishes the vessel moored elsewhere permit and that the total number of valid commercial activity permits for vessels moored elsewhere shall be reduced accordingly. A regular mooring permittee who possesses a valid commercial activity permit may, relinquish the regular mooring permit and retain the commercial activity permit, provided that the total number of valid commercial activity permits for vessels moored in the state boating facility plus the number of commercial activity permits for vessels moored elsewhere are not exceeded, and that the category of commercial activity permits assigned to vessels moored elsewhere pursuant to section 13-231-59(d) shall not exceed the passenger capacity of the vessel formerly moored in the state boating facility. [Eff 2/24/94 am 6/15/03]  
(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-241-8 Certificate of number to be carried aboard vessel; description. The certificate of number shall be of pocket size and water resistant, as prescribed by the chairperson of the board of land and natural resources. The operator of the vessel shall ensure that the certificate of number is available at all times for examination on the vessel for which issued, whenever the vessel is in operation. [Eff 2/24/94 am 6/15/03] (Auth: HRS §§200-24, 200-31) (Imp: HRS §§200-24, 200-31)

§13-244-36 Kaanapali ocean waters, general restrictions. (a) The Kaanapali ocean waters are subject to the following restrictions:

- (1) No person shall navigate any vessel at a speed in excess of five miles per hour within five hundred feet of the shoreline;
- (2) No person shall navigate a motorboat in or on Kaanapali ocean waters within two hundred feet of the shoreline, or designated swimming area, or within one hundred feet of a diver's flag, nor shall any person navigate a commercial motorized vessel within five hundred feet of the shoreline except within a designated ingress/egress corridor. Notwithstanding this paragraph, vessels engaged in fishing outside the designated ingress/egress corridors are exempt from the two hundred foot shoreline restriction, provided that designated swimming areas are approached with caution and due care;
- (3) No person shall navigate a motorized vessel within three hundred feet of a vessel engaged in fishing;
- (4) A vessel engaged in fishing shall not impede the passage of any vessel passing through a designated ingress/egress corridor;
- (5) No person shall embark or disembark passengers on the beach to or from a catamaran registered to carry passengers for hire when the vessel exceeds sixty-five feet in length or a passenger carrying capacity of forty-nine persons unless prior permission to navigate the Kaanapali ocean waters is obtained from the department for each trip through these waters. Notwithstanding this paragraph, any company currently operating a catamaran which exceeds sixty-five feet in length or a passenger carrying capacity of forty-nine persons, which is in business and properly registered with the department of commerce and consumer affairs as of the effective date of these rules may apply for and renew its permit as long as the company remains in business, remains properly registered with the department of commerce and consumer affairs, and complies with the rules of that department;
- (6) No person shall anchor or moor a vessel, barge, platform, or raft within two hundred feet of the shoreline or a designated ingress/egress corridor; and
- (7) No person shall moor a vessel engaged in commercial use in or on Kaanapali ocean waters unless the vessel has been registered and the owner has a valid permit issued by the department in accordance with this chapter; however, commercial vessels solely transiting through the Kaanapali ocean waters shall not be required to be registered or have a commercial permit. This subsection shall not apply to Hawaiian design canoes engaged in crew training.\*\*\*

[Eff 2/24/94; am 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-251-31 Owner of passenger-carrying vessels, for-rent surfboards, for-rent sailboards, for-charter or rent motorboats, or for-rent water sports equipment to give proof of financial responsibility. (a) It shall be unlawful for the owner of any:

- (1) Vessel carrying passengers for hire to authorize or knowingly permit that vessel to be navigated in or upon Waikiki or Kaanapali ocean waters, unless the owner has registered the catamaran as prescribed in this subchapter; except that this paragraph shall not apply to cruising vessels as described in section 13-251-1;
- (2) Surfboard or sailboard engaged in the business of renting surfboards or sailboards for use in Waikiki or Kaanapali ocean waters, to rent a surfboard or sailboard, unless the owner has registered the surfboard or sailboard as prescribed in this subchapter. The department shall not register any vessel, surfboard, or sailboard unless the owner gives proof of financial responsibility as provided by this chapter. The department shall cancel the registration of any vessel, surfboard, or sailboard whenever the department ascertains that the owner has failed to or is unable to give and maintain proof of financial responsibility;
- (3) Water sports equipment engaged in the business of renting water sports equipment for use in Waikiki or Kaanapali ocean waters to rent water sports equipment, unless the owner has registered the water sports equipment as prescribed in this subchapter. The department shall not register any water sports equipment unless the owner gives proof of financial responsibility as provided by this subchapter. The department shall cancel the registration of any water sports equipment whenever the department determines that the owner has failed to or is unable to give and maintain proof of financial responsibility.

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[Eff 2/24/94; am 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)  
(Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-251-58 Kaanapali ocean waters, general restrictions. (a) The Kaanapali ocean waters are subject to the following restrictions. This section shall not apply in the event of an emergency, to law enforcement or rescue craft, to vessels participating under a valid ocean waters permit issued by the department, or to Hawaiian design canoes engaged in crew training.

- (1) No person shall navigate any vessel at a speed in excess of "slow no wake" (five (5) miles per hour) within five hundred feet of the shoreline;
- (2) No person shall navigate a motorboat within two hundred feet of the shoreline, or designated swimming area, or within one hundred feet of a diver's flag, nor shall any person navigate a commercial motorized vessel within five hundred feet of the shoreline except within a designated ingress/egress corridor. Notwithstanding this paragraph, vessels engaged in fishing outside the designated ingress/egress corridors are exempt from the two hundred foot shoreline restriction, provided that designated swimming areas are approached with caution and due care;
- (3) No person shall navigate a motorized vessel within three hundred feet of a vessel engaged in fishing;
- (4) A vessel engaged in fishing shall not impede the passage of any vessel passing through a designated ingress/egress corridor;
- (5) No person shall embark or disembark passengers on the beach to or from a catamaran registered to carry passengers for hire when the vessel exceeds sixty-five feet in length or a passenger carrying capacity of forty-nine persons unless prior permission to navigate is obtained from the department for each trip through these waters. Notwithstanding this paragraph, any company currently operating a catamaran which exceeds sixty-five feet in length or a passenger carrying capacity of forty-nine persons, which is in business on Kaanapali ocean waters and properly registered with the department of commerce and consumer affairs as of the effective date of these rules may apply for and renew its permit so long as the company remains in business, remains properly registered with the department of commerce and consumer affairs, and complies with the rules of that department;
- (6) No person shall anchor or moor a vessel, barge, platform, or raft within two hundred feet of the shoreline or a designated ingress/egress corridor; and
- (7) No person shall moor a vessel engaged in commercial use unless the vessel has been registered and the owner has a valid permit issued in accordance with this chapter; however, commercial vessels solely transiting through the Kaanapali ocean waters shall not be required to be registered or have a commercial permit.

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[Eff 2/24/94; am 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)  
(Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-251-76 Commercial activities. (a) No person shall engage in commercial activities of any kind in or on Waikiki or Kaanapali ocean waters and beach without a written permit from the board or its authorized representatives.

(b) “Kaanapali beach” means the area within Kaanapali ocean waters that is situated between the shoreline and the mean high tide mark along the shores. Exhibits E(2A) through E(2D), dated February 22, 2002, located at the end of this chapter, are provided for reference, and depict the shoreline location of Kaanapali Beach as of September 12, 2001.

(c) Kaanapali beach is designated for public use for sunbathing, foot traffic, swimming, and other activities which, when engaged in, shall not unduly disrupt others from enjoying the beach.

(d) Constructing or placing any building or structure or storing any property, whether temporary, portable, or permanent, at Kaanapali beach shall be prohibited, except where authorized by the department, and, in addition to any other remedies, unauthorized buildings, structures, or property may be removed by the department at the sole risk and cost of the owner.

(e) Vessel owners shall be prohibited from storing any vessel or associated equipment on Kaanapali beach, unless authorized by the department.

(f) The following activities shall be prohibited on Kaanapali beach:

(1) Kite flying; and

(2) Kite surfing equipment.

(g) The maximum number of Kaanapali commercial permits that may be issued for monohull vessels to embark and disembark passengers at Kaanapali beach shall not be greater than five, but small craft used to shuttle passengers to and from a monohull vessel in the Kaanapali waters may be included under that vessel’s commercial activity permit.

(h) Law enforcement and rescue vessels are exempt from the provisions of this section. [Eff 2/24/94 am 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

13-235-63	Kaunakakai Harbor mooring zone
13-235-64	Kaunapali Harbor mooring zone
13-235-65	Kaunapali Mooring zones
13-235-66	Mala Wharf mooring zone
13-235-67	Lahaina mooring zones
13-235-68	Kihei mooring zone
13-235-69	Liliuholo mooring zone
13-235-70	Makena Bay mooring zone
13-235-71	Hana Bay mooring zone
13-235-72	
to	
13-235-92	(Reserved)

§13-235-63 Kaunakakai Harbor Mooring Zone. The Kaunakakai Harbor mooring zone means the area confined by the boundaries shown for said mooring zone on Exhibit "G", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water measured by azimuth clockwise from True South 162 degrees for a distance of two hundred seventy feet from the northwest corner of Kaunakakai Pier; then 108 degrees for a distance of four hundred fifty feet; 227 degrees for a distance of four hundred fifty feet; then on a straight line to the point of beginning.

[ 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-235-64 Kaunapali Harbor Mooring Zone. The Kaunapali Harbor mooring zone means the area confined by the boundaries shown for said mooring zone on Exhibit "H", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the water measured by azimuth clockwise from True South 346 degrees for a distance of six hundred forty-five feet from Kaunapali Harbor Light; then 215 degrees for a distance of six hundred feet; 305 degrees for a distance of two hundred fifty-five feet; 035 degrees for a distance of three hundred ninety-five feet; then on a straight line to the point of beginning.

[Eff 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-235-65 Kaunapali Mooring Zones "A", "B", "C" & "D".

(a) The Kaunapali mooring zones "A", "B", "C" and "D" means the areas confined by the



boundaries shown for said mooring zones on Exhibit "I", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

(1) Kaanapali mooring zone "A".

Beginning at a point on the water measured by azimuth clockwise from True South 210 degrees for a distance of one thousand five hundred feet from Kekaa Pt.; then 113 degrees for distance of three hundred feet; 203 degrees for a distance of six hundred feet; 293 degrees for a distance of three hundred feet; then on a straight line to the point of beginning.

(2) Kaanapali mooring zone "B".

Beginning at a point on the water measured by azimuth clockwise from True South 001 degrees for a distance of one thousand eight hundred feet from Kekaa Pt.; then 090 degrees for a distance of three hundred feet; 360 degrees for a distance of six hundred feet; 270 degrees for a distance of three hundred feet; then on a straight line to the point of beginning.

(3) Kaanapali mooring zone "C".

Beginning at a point on the water measured by azimuth clockwise from True South, 010 degrees for a distance of two thousand six hundred seventy feet from Kekaa Pt.; then 090 degrees for a distance of three hundred feet; 360 degrees for a distance of six hundred feet; 270 degrees for a distance of three hundred feet; then on a straight line to the point of beginning.

(4) Kaanapali mooring zone "D".

Beginning at a point on the water measured by azimuth clockwise from True South, 336 degrees for a distance of two thousand six hundred forty feet from Hanakao Pt.; then 043 degrees for a distance of three hundred feet; 133 degrees for a distance of one thousand five hundred feet; 223 degrees for a distance of three hundred feet; then on a straight line to the point of beginning.  
[Eff 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-235-66 Mala Wharf Mooring Zone. The Mala Wharf mooring zone means the area confined by the boundaries shown for said mooring zone on Exhibit "J", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the water measured by azimuth clockwise from True South, 290 degrees for a distance of six hundred seventy-five feet from the northwest end of Mala Wharf; then 185 degrees for a distance of one thousand ninety-five feet; 169 degrees for a distance of nine hundred seventy-five feet; 192 degrees for a distance of five hundred twenty-five feet; 088 degrees for a distance of one thousand thirty-five feet; 353 degrees for a distance of one thousand two hundred forty-five feet; then

on a straight line to the point of beginning. [Eff 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-235-67 Lahaina Mooring Zones "A" & "B". (a) The Lahaina mooring zones "A" and "B" means the areas confined by the boundaries shown for said mooring zones on Exhibit "K", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

(1) Lahaina mooring zone "A".

Beginning at a point on the water measured by azimuth clockwise from True South, 065 degrees for a distance of seven hundred twenty feet from the western tip of Lahaina Breakwater; then 141 degrees for a distance of two thousand four hundred thirty feet; 122 degrees for a distance of one thousand two hundred seventy-five feet; 030 degrees for a distance of one thousand five hundred thirty feet; 304 degrees for a distance of seven hundred eighty feet; 321 degrees for a distance of two thousand five hundred ninety-five feet; then on a straight line to the point of beginning.

(2) Lahaina mooring zone "B".

Beginning at a point on the water mark measured by azimuth clockwise from True South, 034 degrees for a distance of nine hundred thirty feet from the western tip of Lahaina Harbor Breakwater; then 328 degrees for a distance of five thousand sixty feet; 048 degrees for a distance of one thousand three hundred fifty feet; 148 degrees for a distance of five thousand seven hundred feet; then on a straight line to the point of beginning. [Eff 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-235-68 Kihei Mooring Zone. The Kihei mooring zone means the area confined by the boundaries shown for said mooring zone on Exhibit "L", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the water measured by azimuth clockwise from True South, 103 degrees for a distance of six hundred feet from the southwestern tip of the Kihei Pier ruins; then 125 degrees for a distance of nine hundred feet; 038 degrees for a distance of four hundred fifty feet; 305 degrees for a distance of nine hundred feet; then on a straight line to the point of beginning. [Eff 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-235-69 Liilioholo Mooring Zone. The Liilioholo mooring zone means the area confined

by the boundaries shown for said mooring zone on Exhibit "M", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the water measured by azimuth clockwise from True South, 065 degrees for a distance of two thousand five hundred fifty feet from the low water mark at Liliuholo Point; then 090 degrees for a distance of one thousand eight hundred feet; 180 degrees for a distance of three thousand feet; 270 degrees for a distance of one thousand eight hundred feet; then on a straight line to the point of beginning.

[Eff 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-235-70 Makena Bay Mooring Zone. The Makena Bay mooring zone means the area confined by the boundaries shown for said mooring zone on Exhibit "N", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the water measured by azimuth clockwise from True South, 016 degrees for a distance of one thousand eight hundred feet from the low water mark on the southwest tip of Nahuna Point, then 115 degrees for a distance of six hundred seventy-five feet; 025 degrees for a distance of one thousand five hundred feet; 295 degrees for a distance of six hundred seventy-five feet; then on a straight line to the point of beginning. [Eff 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-235-71 Hana Bay Mooring Zone. The Hana Bay mooring zone means the area confined by the boundaries shown for said mooring zone on Exhibit "O", dated July 15, 1990, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the water measured by azimuth clockwise from True South 088 degrees for a distance of one hundred sixty-five feet from the southwest corner of Hana Pier; then 143 degrees for a distance of one hundred sixty-five feet; 233 degrees for a distance of three hundred feet; 323 degrees for a distance of one hundred sixty-five feet; then on a straight line to the point of beginning. [Eff 6/15/03] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-256-13 Mooring of rafts and platforms. Except as permitted by the department, permanent or temporary mooring of rafts and platforms for use in thrill craft, parasailing and other water sports activities is prohibited. Rafts and platforms shall be removed daily from State waters or located in a designated anchorage or harbor in accordance with a valid permit issued by the department. Ground tackle for mooring of rafts and platforms shall not be placed on live coral. [Eff 2/24/94; am 6/15/03] (Auth: HRS §§200-6, 200-22, 200-24) (Imp: HRS §§200-6, 200-22, 200-24)

§13-256-109 Kaanapali Commercial Thrill Craft Areas. (a) The Kaanapali Commercial Thrill Craft Areas are the areas encompassed by the boundaries shown of the areas on Exhibit "RR", dated March 1, 2002 and located at the end of this subchapter. The boundaries are as follows:

(1) Kaanapali Commercial Thrill Craft Area 1.

The area within 200 yards of a line drawn between GPS position 20 degrees 54.170 minutes north latitude, 156 degrees 41.530 minutes west longitude and GPS position 20 degrees 54.340 minutes north latitude, 156 degrees 41.630 minutes west longitude.

(2) Kaanapali Commercial Thrill Craft Area 2.

The area within 150 yards radius of GPS position 20 degrees 54.250 north latitude, 156 degrees 41.850 minutes west longitude.

(b) A maximum of three commercial thrill craft operating area permits may be issued for Kaanapali ocean waters. Notwithstanding the contrary provisions of section 13-256-18, a person owning one or more business entities holding valid commercial thrill craft permits may consolidate all commercial thrill craft operations within Kaanapali Commercial Thrill Craft Area 1; provided that no more than eighteen rental units and three safety units shall be operated at any one time. Kaanapali Commercial Thrill Craft Area 2 is reserved for use by a single permittee. All support rafts or platforms shall be located within the operating area and shall display an anchor light at night.

(c) These areas shall be closed to all thrill craft operations during the whale season, from December 15 to May 15 of the following year. [Eff 2/24/94; am 6/15/03] (Auth: HRS §§200-6, 200-22, 200-23, 200-24, 200-37) (Imp: HRS §§200-6, 200-22, 200-23, 200-24, 200-37)

Amendments to chapter 13, title 13, Hawaii Administrative Rules, on the Summary Page dated April 28, 2003 were adopted on March 14, 2003, following the public hearing held on January 11, 2003, after public notice was given in the Honolulu Star-Bulletin, on December 7, 2002, The Maui News, on December 10, 2002, and West Hawaii Today, on December 11, 2002.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

  Peter T. Young    
Peter T. Young, Chairperson  
Board of Land and Natural Resources

  Linda Lingle    
LINDA LINGLE  
Governor  
State of Hawaii

Dated:   6 / 5 / 2003  

  6 / 5 / 2003    
Filed

APPROVED AS TO FORM:

  Pamela Matsukawa    
Deputy Attorney General

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to Chapters 13-230, 13-231, 13-241, 13-244, 13-251, 13-235, and 13-256  
Hawaii Administrative Rules

April 28, 2003

SUMMARY

1. §13-230-8 is amended.
2. §13-231-58 is amended.
3. §13-241-8 is amended.
4. §13-244-36 is amended.
5. §13-251-31 is amended.
6. §13-251-58 is amended.
7. §13-251-76 is amended.
8. Chapter 13-235 is amended by adopting a new Subchapter 3.
9. §13-256-13 is amended.
10. §13-256-109 is amended.